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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,401	07/30/2001	John P. Moyna	CJM-P-01-001	4664

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PATENTS+TMS  
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EXAMINER
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BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,401

Applicant(s)

MOYNA, JOHN P.

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-25 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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***Claim Objections***

Claims 10-14 are objected to because of the following informalities: In claim 10 line 9, "the axis" lacks proper antecedent basis. Appropriate correction is required.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1- 6,8, 9, ~~15, 18, 20, 21, 23, 24~~, 28, 30 is rejected under 35 U.S.C. 102(b) as being anticipate by Kinzenbaw et al. (5,346,019).

Kinzenbaw et al., discloses an apparatus including a frame, axle, cylinder, discs, a controller, a pillar 1018 a column 100b inside the pillar, liner 180b and plates 182b inside the pillar supporting the column as shown in figures 3d & 6. Kinzenbaw et al. further discloses a hitch 18 and tires 32 and a plug (considered the wheel not numbered but shown in figure 1b & 1c, or 166 in figure 4.

Concerning claim 15, Kinzenbaw et al. discloses a front cross bar 22, rear cross bar 24 and a beam (25a, 26a, 26b or 25b).

Concerning claim 28, Kinzenbaw et al. discloses an apparatus including a frame discs, tires 32, a pillar 118 including a liner 180b and a front cylinder 108.

Concerning claim 24, cylinder 80 of Kinzenbaw et al. is considered the front cylinder.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,19,22,25,29,31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzenbaw et al. (5,346,019) in view of Taylor et al. (4,725,068).

Kinzenbaw et al. discloses an apparatus as described previously, including a hitch 18. Kinzenbaw et al., however lacks specifying that a connector that rotates 360 degrees, is used with the hitch. Kinzenbaw et al., does however show holes in the hitch that are used to connect the hitch to a towing vehicle (fig. 1a).

Taylor et al. teaches that it is known in the art to use a pin 84 to connect an implement frame to a tow vehicle. Pins are used as connecting devices as they allow for quick and easy connections. The examiner notes that although a tightened bolt often cannot be rotated, a pin such as the ones used with agricultural devices to provide quick connections can in fact rotate 360 degrees. Therefore, the use of a connecting pin that can rotate 360 degrees within its' aperture would meet the claimed limitation of the connector rotating 360 degrees.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the device of Kinzenbaw et al., by using a pin to connect the implement to a tow vehicle as taught by Taylor et al., to allow the implement to be quickly and easily attached to its' tow vehicle.

***Allowable Subject Matter***

Claims 10-14,26,27 allowed.

***Response to Arguments***

Applicant's arguments regarding the pivoting of the frame (claims 10-14, 26 & 27) have been considered and are found persuasive. Applicant's arguments regarding Kinzenbaw et al. in view of Taylor are not persuasive, since as set forth above, Kinzenbaw et al. discloses a frame having a pillar with a liner within the pillar.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine the references was based on knowledge generally available to one of ordinary skill in the art was used.

Regarding previously objected to claims 5 & 7, upon further consideration, claims 5 & 7 are not objected to as having allowable subject matter as set forth in the previous office action. Accordingly, claims 5, 7, 30 & 31 have now been rejected as set forth above. Therefore, the Finality of the previous office action has been withdrawn.

The examiner does not agree with applicant's arguments regarding claim 28, and notes that figures 1b & 1c show the discs being raised while tires 32d remain in contact with the soil.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.

June 5, 2003



Victor Batson  
Primary Examiner  
Art Unit 3671